THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No.4892 OF 2005

DATE: 7.8.2006

Between:

K.V.N.Raju
…. Petitioner

And

1. The Government of Andhra Pradesh
rep. by its Special Chief Secretary to Govt.
and two others …
Respondents

THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No.4892 OF 2005

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Dr.K.Lakshmi Narasimha, learned counsel for the petitioner and the learned Government Pleader for Services II and at their request the writ petition itself is taken up for disposal.

Aggrieved by the order of the A.P. Administrative Tribunal in O.A.5932 of 2003 dated 17.2.2005, whereby the competent authority was directed to review the case of the applicant taking the material available on record, representations, if any, made by the applicant and to pass appropriate orders within one month from the date of receipt of a copy of the order and till such time the suspension order was reviewed in terms of G.O.Ms.No.86 dated 8.3.1994 and appropriate orders were passed, interim orders issued by the High Court earlier in W.P.1217/98 dated 17.9.2003, was directed to be continued, the present writ petition is filed.

Facts, in brief, are that on a surprise check conducted by the Anti Corruption Bureau authorities, the petitioner was allegedly found in possession of assets, disproportionate to his sources of income, to a tune of Rs.1.03 Crores. Crime No.3 was registered against him under Section 13 of the Prevention of Corruption Act and investigation was taken up. The petitioner was placed under suspension. The petitioner relied on Government Memo dated 26.12.1994 in support of his contention that in cases of disproportionate assets, the accused officer need not automatically be suspended. Against the order suspending him from service, vide G.O.Rt.No.1704 dated 8.9.2003, the petitioner filed O.A.5932/03 and since the Tribunal declined to grant interim relief, he filed W.P.No.19542 of 2003. The said writ petition was disposed of at the admission stage, by order dated 17.9.2003. This Court, after perusing the order of the Tribunal found that the Tribunal had not taken note of G.O.Ms.No.554 dated 26.12.1994. This Court was of the view that the Tribunal ought to have exercised the discretion vested in it while admitting the O.A. and that it should have disposed of the O.A. itself within a reasonable time. The writ petition was itself disposed of directing the Tribunal to dispose of the O.A. itself within four months

and pending consideration of the O.A. the order in G.O.Rt.No.1704 dated 8.9.2003 was directed not be given effect to. On the O.A. being finally heard the order, impugned in the present writ petition, was passed.

Dr.K.Lakshminarasimha, learned counsel for the petitioner would submit that, as against the order of this Court directing that Memo dated 20.6.1994 be taken into consideration, the Tribunal had, instead, directed the applicant to appear before the investigating officer.

While it is true that the Tribunal had held that the contentions raised by the petitioner had to be gone into by the Investigating Officer, such a conclusion was arrived at since the investigation in to the possession of disproportionate assets was still on. It is to be noted that W.P.19542/03, filed against the order of the Tribunal refusing to grant interim directions, is itself in the nature of interlocutory proceedings. The writ petition was disposed of at the admission stage and there was no positive direction that the Government should take into consideration its Memo dated 20.6.1994 before placing an employee under suspension. In any event, the relief granted in the O.A. was a direction to the respondents to review the case of the petitioner – applicant, taking into consideration the material available on record. We fail to understand as to how the petitioner-applicant can be aggrieved by this order of the Tribunal. We are surprised that the Government has not chosen to challenge the order of the Tribunal in O.A.5932 of 2003 dated 17.2.2005.

The respondents herein (respondents in the O.A) as directed by the Tribunal, shall review the case of the petitioners, after taking into consideration the material available on record and representations of the petitioner herein, if any, and pass appropriate orders in accordance with law within one month from the date of receipt of a copy of this order.

The writ petition is dismissed. No costs.

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B. PRAKASH RAO, J

Date:7.08.2006

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RAMESH RANGANATHAN, J